

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

LASTERTEL NORTH AMERICA,

Plaintiff,

Case No. 3:12-CV-354

vs.

INNOVA, INC.,

District Judge Thomas M. Rose
Magistrate Judge Michael J. Newman

Defendant.

**REPORT AND RECOMMENDATION¹ THAT: (1) PLAINTIFF/JUDGMENT
CREDITOR LASTERTEL'S UNOPPOSED MOTION FOR A CHARGING ORDER
(DOC. 52) BE GRANTED; AND (2) THAT A CHARGING ORDER ISSUE**

This civil case is before the Court on the motion of Plaintiff-Judgment Creditor Lastertel North America ("Lastertel") for a Charging Order against the membership interest of Defendant-Judgment Debtor, Innova, Inc. ("Innova") in D-Diode, LLC ("D-Diode"). Doc. 52. At the request of the Court, Lastertel also filed a supplemental memorandum in support of its motion. Doc. 53. Neither Innova nor D-Diode filed any response to Lastertel's motion and the time for doing so has expired. Therefore, Lastertel's motion is unopposed.

For the reasons set forth by Lastertel in its motion (doc. 52) and its supplemental memorandum (doc. 53), the undersigned, for good cause shown -- and finding that the Court possesses jurisdiction to act -- **RECOMMENDS** that: (1) Lastertel's motion (doc. 52) be **GRANTED**; and (2) a Charging Order issue under Fed. R. Civ. P. 69 and Ohio law stating as follows:

¹ Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendation.

1. That the membership interest of Innova in D-Diode be charged with payment of the unpaid balance of \$623,432.69, plus 12% annual interest from and after the date of judgment until satisfied;
2. That any and all payments, including, but not limited to, distributions of earnings which would otherwise be made to Innova by D-Diode shall be made instead to Lasertel in reduction of its judgment;
3. That D-Diode and the members comprising D-Diode shall make no payments, including, but not limited to, distributions of earnings to Innova on account of its interest in D-Diode until such time as Lasertel's judgment has been satisfied of record;
4. That Lasertel shall serve copies of the Charging Order by certified mail, return receipt requested, upon D-Diode and all persons and/or entities holding a membership interest or has been assigned a membership interest in D-Diode; and
5. That D-Diode file a statement identifying the members of D-Diode and their share of the membership interests so held within 30 days of the entry of the Charging Order; and
6. That this Court reserve jurisdiction to issue any orders or decide any issues that may arise in the execution of the Charging Order.

This Report and Recommendation does not impact Lasertel's ability to seek further Orders in aid of execution of its judgment, or as may be necessary and appropriate under the law.

Date: March 8, 2016

s/ Michael J. Newman
Michael J. Newman
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within **FOURTEEN** days after being served with this Report and Recommendation. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to **SEVENTEEN** days because this Report and Recommendation is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F), and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report and Recommendation objected to, and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within **FOURTEEN** days after being served with a copy thereof. As is made clear above, this period is likewise extended to **SEVENTEEN** days if service of the objections is made pursuant to Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140, 153-55 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).